

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C.

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JAN 29 1996

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In the Matter of )  
 )  
Amendment of the Commission's ) ET Docket No. 95-183  
Rules Regarding the 37.0-38.6 GHz ) RM-8553  
and 38.6-40.0 GHz Bands )  
 )  
Implementation of Section 309(j) )  
of the Communications Act -- ) PP Docket No. 93-253  
Competitive Bidding, 37.0-38.6 GHz )  
and 38.6-40.0 GHz )

To: The Commission

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COMMENTS OF GHZ EQUIPMENT COMPANY, INC.  
IN SUPPORT OF THE EMERGENCY MOTION FOR STAY OF  
COMMCO, L.L.C., PLAINCOM, INC. AND SINTRA CAPITAL CORPORATION

GHZ Equipment Company, Inc. ("GEC"), pursuant to Section 1.41 of the Commission's Rules, 47 C.F.R. §1.41, hereby files comments in support of the Emergency Motion for Stay filed on January 16, 1996 by Commco, L.L.C., PLAINCOM, INC., and Sintra Capital Corporation (collectively referred to as "Petitioners"). Specifically, Petitioners have requested that the Commission immediately stay its interim freeze on the processing of mutually exclusive applications, including amendments thereto, to establish new facilities in the 38.6 - 40 GHz (hereinafter "39 GHz") frequency band. Petitioners' stay is requested pending action on their Petition for Reconsideration of the Notice of Proposed Rulemaking and Order, adopted December 15, 1995 in the above-captioned proceeding (hereinafter "39 GHz Order").

GEC has 42 applications pending with the Commission to establish new facilities in the 39 GHz frequency band which are adversely affected by the Commission's freeze on the filing of

amendments to resolve mutual exclusivity. Moreover, GEC has filed 27 minor amendments which have successfully resolved mutual exclusivity with other pending 39 GHz applicants.

GEC's applications set forth an exciting plan for interconnecting public schools, community colleges and libraries to the National Information Infrastructure. Its proposal is an outstanding example of the Administration's call for private industry initiatives in the service of education, to create "high-tech" links between schools and the NII on a fully interactive basis. The environment for the users of the proposed facilities exists already -- in the form of hundreds of public schools, libraries and community colleges within the various service areas proposed in GEC's applications. The company has been working for nearly two years to obtain the spectrum necessary to begin implementation of its plans. Equipment has been developed. Technical trials have been conducted pursuant to an experimental license. Thousands of man hours and over three hundred thousand dollars have been invested to date in order to effect this ambitious plan at the earliest possible time. We are simply waiting for the Commission to complete processing of our applications. The immediate issuance of the licenses is vital to our continued viability because GEC, as a small business, lacks the staying power to withstand an abrupt, unforeseen change in the Commission's licensing rules for this spectrum. Our entire business plan has been established in reliance upon the framework of the existing Part 21 rules -- which, inter alia, encourage the


private resolution of mutual exclusivity cases. We have worked assiduously to eliminate these interference cases by amendment. If these pending amendments are not processed immediately our progress will be jeopardized to such an extent that it will be difficult, if not impossible, for GEC to stay in business.

GEC believes that the arguments raised by Petitioners' in their Request for Stay, particularly those regarding the Commission's obligations to avoid mutual exclusivity under Section 309(j)(6)(E) of the Communications Act of 1934, as amended, are sound and warrant immediate Commission action. Therefore, for the reasons set forth therein, GEC supports the grant of Petitioners' Request for Stay.

Respectfully submitted,

GHZ EQUIPMENT COMPANY, INC.

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Date:  29, 1996